

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

REC'D 26 OCT 2005

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Applicant's or agent's file reference Cal 87075	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/IT 03/00738	International filing date (day/month/year) 14.11.2003	Priority date (day/month/year) 25.07.2003
International Patent Classification (IPC) or both national classification and IPC A01D34/00		
Applicant BCS S.P.A. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 03.08.2004	Date of completion of this report 21.10.2005
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**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/IT 03/00738**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-15 as originally filed

Claims, Numbers

4(part), 5-14 as originally filed

1-3, 4(part) received on 29.07.2005 with letter of 27.07.2005

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-14
	No: Claims	
Inventive step (IS)	Yes: Claims	6-8,13
	No: Claims	1-5,9-12,14
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

V. Reasoned statement

1. Concerning the subject matter newly-introduced into claim 1:
 - i) The feature whereby the cutting assemblies have horizontal axes (I.7) is clearly derivable from the drawings;
 - ii) The feature wherein the blades have "the cutting edge of the blade parallel to the rotation axis" (I.8) is derivable from page 3, lines 12-14, and serves to render the terminology "spoon-like" understandable;
 - iii) The text of page 16a is not derivable from the application as originally filed; while there is a basis for the feature whereby shredding takes place at a location defined by the deflecting element and the two cutting assemblies, and that the action of said cutting assemblies is concurrent, this location is consistently referred to as a shredding *chamber*, there being no support for the broader terminology shredding *area*. (see claim 5; p.8, I.9-10; p.10, I.24 - p.11, I.1; p.12, I.6-8). It follows that amendment iii) filed with the letter of 27/07/05 introduces subject-matter which extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT.
2. US-A-3 899 866 (D1) discloses (see, in particular, col.2, I.57 - col.3, I.3; col.5, I.38-49; figs.1-4) a machine 10 comprising a protection element 12, wheels 18, cutting assembly 22 with lawn mower blades, cutting assembly 24 with shredding type blades and a deflecting element 102 protruding toward the inside of the protection element, as in lines 1-16 of claim 1. As said element 102 of D1 extends downwardly to such an extent that the upper portions of both cutting assemblies are enclosed (col.5, I.38-49 & fig.4), it is apparent that the deflecting element and two cutting assemblies cannot together define a shredding area as specified in claim 1. It follows that the subject matter of this claim meets the requirements of novelty, Article 33(2) PCT, with regard to D1. Moreover, as the shredding action of D1 takes place between assembly 24 and bed 26 (col.6, I.2-7), there would be no reason to modify the structure of said element 102 so as alter the shredding location. The subject matter of claim 1 thus also involves an inventive step, Article 33(3) PCT, with regard to D1.
3. US-A-5 070 683 (D2), DE-A-23 20 126 & FR-A-2 771 894 each disclose arrangements wherein one cutting assembly has a vertical axis and the other a

horizontal axis, and so are less relevant to the claimed machine, wherein each cutting assembly has a horizontal axis.

4. However, GB-A-2 260 683 (D3) discloses a machine comprising a protection element 4, roller 9, cutting assembly 5 with blades 11 having their cutting edge parallel to the rotation axis [cf. fig.3], cutting assembly 6 with shredding type blades 12 and a deflecting element [not labelled but clearly visible in fig.2], from which the machine of claim 1 differs in comprising a *plurality* of rollers, rather than a *single* roller. However, a minor difference of this sort is considered to involve an inventive activity, such that the subject matter of claim 1 fails to meet the requirements of Article 33(3) PCT. While there is no specific indication in D3 that the deflecting element defines together with the two cutting assemblies a shredding area, this feature is nevertheless apparent from figure 2. Concerning the further feature of claim 1 whereby the action of said cutting assemblies is concurrent, it is further apparent from the relative positions of the deflecting element and two cutting assemblies that grass cut by assembly 5 will be deflected by said element into said defined area, and that the grass will then be subjected to the concurrent action of said assemblies.
5. Concerning the additional subject matter of the dependent claims:
 - claims 2 & 14 merely relate to the *use* of the machine, for which uses the machine of D3 would also be suitable;
 - claims 3-5,9-12 are known from D3;
 - claims 6-8 & 13 are not derivable from the available prior art (while a movable element is known from D2, in view of the different arrangement - see above, point V.3
 - there would be no reason to apply such an element to the machine of D3).The subject-matter of claims 2-5, 9-12 & 14 thus fails to involve an inventive step, Article 33(3) PCT.
6. The embodiment of the invention described on page 13, lines 11-19 and shown in figure 4 does not fall within the scope of the claims, which - as noted above - require that the deflecting element defines together with the cutting assemblies a shredding area. This inconsistency between the claims and description leads to doubt concerning the matter for which protection is sought, thereby rendering the claims unclear, Article 6 PCT.

CLAIMS

1. A machine for cutting and tritürating grass and other vegetable products, comprising a protection element (30), equipped with wheels, rollers or slides (35) and containing at least one pair of cutting assemblies (15, 16) with horizontal axis, wherein one cutting assembly (15) comprises blades having the cutting edge of the blade parallel to the rotation axis, of the lawn mower type or of the spoon-like type (21) and one cutting assembly (16) comprises shredding type blades (22), and a deflecting element (25, 125, 25') being placed between the two cutting assemblies (15, 16) which causes the detachment of portions of the cut vegetable products from an inner wall of the protection element (30) and delivers them over the cutting assemblies (15, 16), said deflecting element (25, 125, 25') protruding toward the inside of the protection element (30) ^{page,} ~~insert 16a~~
2. Machine according to claim 1, characterized by the fact of being a lawnmower.
3. Machine according to claims 1 or 2, characterized by the fact that said deflecting element (25, 125) is connected peripherally at least partially to the blades of both the two cutting assemblies (15, 16).
4. Machine according to claims 1 or 2, characterized by the fact that said deflecting element (25) is of the wedge type, is fixed to said protection element (30) and

<and defining together with said two cutting assemblies (15, 16) a shredding area of concurrent action of said two cutting assemblies (15, 16).>